IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Criminal Revision No. 822 of 2005
Date of Decision:May 13, 2010

Phool Singh and others .....Petitioners

Versus

State of Haryana and another .....Respondents

Coram: Hon'ble Mrs. Justice Sabina

Present: Mr.S.S.Dinarpur, Advocate for the petitioners.
Mrs.Shubhra Singh, DeputyAdvocate General, Haryana
None for respondent No.2

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Sabina, J.

Petitioners were convicted for an offence under Sections 323/325/447 read with Section 120-B of the Indian Penal Code (`IPC' for short) vide judgment dated 26.4.2003 by the Judicial Magistrate Ist Class, Pehowa. Vide order dated 29.4.2003, petitioners were sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.2000/- each under Section 325 IPC; to undergo rigorous imprisonment for a period of three months and a fine of Rs.1000/- each under Section 323 IPC and was further ordered to undergo rigorous imprisonment for a period of one month and a fine of Rs. 500/- each under Section 447 IPC . All the sentences were ordered to run concurrently. Aggrieved

by the same, petitioners preferred an appeal and the same was dismissed by Additional Sessions Judge Kurukshetra vide judgment dated 20.4.2005 Hence, the present revision petition.

The brief facts of the case, as noticed by the Appellate Court in para 2 of its judgment, are as under:-

> "2. Briefly stated the facts of the complaint filed by the complainant against the accused-appellants are that he and his brother Jagdish were owners in possession of one gair mumkin bara situated at village Basantpur, Tehsil, Thanesar, District Kurukshetra pertaining to Khasra no.66 measuring 15 marlas;whereas the accused party was strong headed person and they wanted to encroach upon the bara of complainant and thus the complainant and his brothers were compelled to file a civil suit for injunction against the accused. It has been alleged that despite issuance of stay order accused nos. 8 and 9 colluded with remaining accused in the night of 2/3-6-1992 and on that day at about 10.00/11.00 p.m. accused no. 1 to 7 in collusion with accused nos. 8 and 9 forcibly encroached upon the bara of complainant and when the complainant and his brother Lal Chand requested the accused not to do so then accused no. 1 to 7 caused injuries to the complainant and his brother Lal Chand with lathies. It has been alleged that accused Phool Singh gave lathi blow on the mouth of complainant thereby breaking two teeth of upper jaw and one tooth of lower jaw. Accused Shiv Charan gave lathi blow on the head of the complainant. Accused Prem Chand gave lathi blow on the left foot of complainant. Accused Baljit gave lathi

blow on the head of Lal Chand. Accused Des Raj gave lathis blow on the back and Ganga Ram accused gave lathi blow on the knee of Lal Chand. Accused Ram Sigh also gave lathi blow on right foot of Lal Chand. It has been further alleged that accused no.1 to 7 caused injuries on other parts of the body of complainant and his brother Lal Chand and they encroached upon the bara of complainant in an illegal and forcible manner by taking the law in their hands. It has been further alleged that copy of the stay order was given to accused nos. 8 and 9 in advance but they entered into criminal conspiracy with accused nos. 1 to 7 and abated the commission of aforestated illegal act and accused nos.8 and 9 had not registered any case against accused rather the complainant was challaned falsely in order to cause injury to the complainant after hatching conspiracy with the remaining accused. It has been alleged that the complainant and his brother Lal Chand got themselves medico legally examined and requested the police to register a case but no action was taken by the police. It has been alleged that the said occurrence was witnessed by many persons including Deva Singh, Tan Singh Sarwan and Balwan Singh and they rescued the complainant and his brother Lal Chand from the clutches of accused. The accused has also threatened the complainant with dire consequences in future."

During the course of arguments, learned counsel for the petitioners, has not challenged the conviction of the petitioners under Sections 323/325/447 read with Section 120-B IPC but has submitted that the sentence qua imprisonment be reduced to already undergone by the

petitioners. Learned counsel has submitted that the fine,as imposed by the Courts below, have already been deposited by the petitioners. Learned counsel has further submitted that not only all the petitioners have undergone more than one month of actual sentence but also are facing the criminal proceedings since the year 1992 . Petitioners No. 4 and 5 are more than 70 years of old.

Keeping in view the submissions made by the learned counsel for the petitioners, it is a fit case where the sentence qua imprisonment is liable to be reduced to already undergone by the petitioners.

Hence, the conviction of the petitioners under Sections 323/325/447 read with Section 120-B IPC is maintained. However, the sentence qua the imprisonment of the petitioners is reduced to already undergone by them.

Petition stands disposed of accordingly.

(Sabina)
Judge

May 13, 2010
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